

LEWIS
AND

ROCA
LLP

L A W Y E R S

E-Filed on 3/23/07

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Susan M. Freeman AZ State Bar No. 004199
Email: sfreeman@lrlaw.com
Rob Charles NV State Bar No. 006593
Email: rcharles@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS, LLC,

USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

USA CAPITAL FIRST TRUST DEED FUND,
LLC,

USA SECURITIES, LLC,

Debtors.

Affects:

- All Debtors
- × USA Commercial Mortgage Company
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC
- USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-
06-10725 LBR

**NOTICE OF HEARING REGARDING
THIRD OMNIBUS OBJECTION OF
THE USACM LIQUIDATING TRUST
TO CLAIMS ASSERTING PRIORITY
STATUS**

Hearing Date: April 26, 2007
Hearing Time: 9:30 a.m.

**THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM THAT
YOU FILED. THIS IS NOT AN OBJECTION TO THE VALIDITY OR AMOUNT
OF YOUR CLAIM, RATHER IT ARGUES THAT YOUR CLAIM IS NOT
ENTITLED TO PRIORITY STATUS. THE DEADLINE TO RESPOND TO THE
OBJECTION IS APRIL 19, 2007. PLEASE DO NOT CONTACT THE CLERK OF
THE BANKRUPTCY COURT TO DISCUSS THE MERITS OF YOUR CLAIM.
QUESTIONS REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A**

1 **CLAIM SHOULD BE DIRECTED TO BMC GROUP AT 888-909-0100, OR**
2 **WWW.BMCGROUP.COM/USACMC, or to the undersigned counsel.**

3 **NOTICE IS HEREBY GIVEN** that the USACM Liquidating Trust, by and
4 through its counsel, has filed a Third Omnibus Objection to Claims Asserting Priority
5 Status (the “Objection”). The USACM Liquidating Trust has requested that this Court
6 enter an order, pursuant to section 502 of title 11 of the United States Code (the
7 “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the
8 “Bankruptcy Rules”), for an order denying priority status to approximately 110 alleged
9 Priority Claims asserting Claims against USA Commercial Mortgage Company
10 (“USACM”) that aggregate over \$17 million.

11 Specifically, the USACM Liquidating Trust argues that there is no basis in the
12 proofs of claim or in the books and records of the Debtors that would support a priority
13 Claim. The USACM Trust objects to the Claims on the basis that they are not one of the
14 ten types of Claims entitled to priority status under Sec. 507, and asserts they should be
15 reclassified as general unsecured Claims. These claimants have produced no evidence or
16 documentation supporting their contention that they should be treated as priority Claims.
17 The USACM Trust does not object to the validity or amount of the Claim at this time, but
18 reserves the right to do so in the future. The Trust requests that the Court reclassify these
19 claims as general unsecured claims (albeit subject to additional objections). As explained
20 in the motion, the USACM Liquidating Trust may have other objections to the claims that
21 will be filed later.

22 **NOTICE IS FURTHER GIVEN** that the hearing on the Objection will be held
23 before the Honorable Linda B. Riegle, United States Bankruptcy Judge, in the Foley
24 Federal Building, 300 Las Vegas Boulevard South, Courtroom 1, Las Vegas, Nevada, on
25 **April 26, 2007, at the hour of 9:30 a.m.**
26

LEWIS
AND
ROCA
LLP
LAWYERS

1 NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON APRIL 26,
2 2007, WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND
3 SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE
4 HEARD ON THAT DATE.

5 NOTICE IS FURTHER GIVEN that any response to the Objection must be filed
6 by **April 19, 2007** pursuant to Local Rule 3007(b), which states:

7 If an objection to a claim is opposed, a written response must be filed and
8 served on the objecting party at least 5 business days before the scheduled
9 hearing. A response is deemed sufficient if it states that written
10 documentation in support of the proof of claim has already been provided to
the objecting party and that the documentation will be provided at any
evidentiary hearing or trial on the matter.

11 If you object to the relief requested, you *must* file a **WRITTEN** response to this
12 pleading with the Court. You *must* also serve your written response on the person who
13 sent you this notice.

14 If you do not file a written response with the Court, or if you do not serve your
15 written response on the person who sent you this notice, then:

- 16
- 17 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
 - 18 • The Court may *rule against you* without formally calling the matter at the
19 hearing.

20 Dated: March 23, 2007.

LEWIS AND ROCA LLP

21 By: /s/ RC (#6593)

22 Susan M. Freeman, AZ 4199 (*pro hac vice*)

23 Rob Charles, NV 6593

24 3993 Howard Hughes Parkway, Suite 600

25 Las Vegas, Nevada 89169-5996

26 Facsimile (702) 949-8321

Telephone (702) 949-8320

Counsel for USACM Liquidating Trust